



DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD-2021-OS-0103]

Privacy Act of 1974; System of Records

AGENCY: Office of the Secretary of Defense (OSD), Department of Defense (DoD).

ACTION: Notice of a new system of records.

SUMMARY: In accordance with the Privacy Act of 1974, the DoD is establishing a new system of records titled “Office of Military Commissions (OMC), Office of Court Administration’s Nominees and Panel Member Records,” DGC 23. This system will be used to verify panel members’ eligibility to serve on the panel, confirm panel members’ clearances, and coordinate their travel to the location of the court.

DATES: This system of records is effective upon publication; however, comments on the Routine Uses will be accepted on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. The Routine Uses are effective at the close of the comment period.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

* Federal Rulemaking Portal: <https://www.regulations.gov>.

Follow the instructions for submitting comments.

* Mail: DoD cannot receive written comments at this time due to the COVID-19 pandemic. Comments should be sent electronically to the docket listed above.

Instructions: All submissions received must include the agency name and docket number for this Federal Register document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet

at <https://www.regulations.gov> as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: Ms. Alva C. Foster, Office of Information Counsel, DoD General Counsel (Legal Counsel), 1600 Defense Pentagon, Room 3B688, Washington, DC 20301, alva.c.foster.civ@mail.mil or by phone at (571) 286-0254.

SUPPLEMENTARY INFORMATION:

I. Background

The OSD is establishing a new system of records subject to the Privacy Act of 1974, 5 U.S.C. 552a. This set of records provides the OMC the necessary means to support the selection of panel members for military commissions trials by: (1) coordinating with military Service representatives to identify commissioned and warrant officers who may be eligible to serve as panel members; (2) verifying and/or requesting security clearances for those individuals; and (3) collecting the necessary information to process and coordinate travel requirements for those individuals, as required by 10 U.S.C. 948i(b) and the Manual for Military Commissions (2019 Edition), Rules for Military Commissions (R.M.C.) 503(a).

DoD system of record notices (SORNs) have been published in the Federal Register and are available from the address in FOR FURTHER INFORMATION CONTACT or at the Defense Privacy, Civil Liberties, and Transparency Division website at <https://dpcl.d.defense.gov/privacy>.

II. Privacy Act

Under the Privacy Act, a “system of records” is a group of records under the control of an agency from which information is retrieved by the name of an individual or by some identifying number, symbol, or other identifying particular assigned to the individual. In the Privacy Act, an individual is defined as a U.S. citizen or lawful permanent resident.

In accordance with 5 U.S.C. 552a(r) and Office of Management and Budget (OMB) Circular No. A-108, the DPCLTD has provided a report of this system of records to the OMB and to Congress.

Dated: October 12, 2021.

Aaron T. Siegel,
Alternate OSD Federal Register Liaison Officer,
Department of Defense.

SYSTEM NAME AND NUMBER: Office of Military Commissions (OMC), Office of Court Administration's Nominees and Panel Member Records, DGC 23.

SECURITY CLASSIFICATION: Unclassified.

SYSTEM LOCATION: Paper records are maintained at Office of Military Commissions, Attn: Office of Court Administration, 1550 Crystal Drive, Suite 501, Arlington, VA 22202.

Electronic records are maintained at both the above address and on the server of Office of Military Commissions, Attn: Office of Court Administration, 4800 Mark Center Drive, Alexandria, VA 22350-2100.

SYSTEM MANAGER(S): Chief, Office of Court Administration, Office of Military Commissions, 1550 Crystal Drive, Suite 501, Arlington, VA 22202. Email: osd.pentagon.rsrcmgmt.list.court-members@mail.mil.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM: 10 U.S.C. 47A, Military Commissions; Military Commissions Act of 2009; Regulation for Trial by Military Commission (2011 Edition); Manual for Military Commissions United States (2019 Edition), R.M.C. 503(a); Deputy Secretary of Defense Directive: Nominees for Members of Military Commissions; E.O. 9397 (SSN), as amended.

PURPOSE(S) OF THE SYSTEM: To support the selection of panel members for military commissions trials by: (1) coordinating with military Service representatives to identify commissioned and warrant officers who may be eligible to serve as panel members; (2) verifying and/or requesting security clearances for those individuals; and (3) collecting the necessary information to process and coordinate travel requirements for those individuals.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM: All military Service members nominated or selected to serve as panel members.

CATEGORIES OF RECORDS IN THE SYSTEM:

A. Biographical information, such as name; Social Security Number (SSN); date of birth; place of birth; gender height, weight, and blood type.

B. Personal and assignment information, such as home address; government email address; personal email address; home and work telephone numbers; duty location and address; supervisor or unit point of contact; and emergency point of contact.

C. Military occupation information, such as: rank; grade; branch of service; date of rank; active duty service date; security clearance level and date; command position information; deployment information; emergency point of contact name and contact information; OMC case number.

RECORD SOURCE CATEGORIES: The individual; panel member data forms.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING

CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES: In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, as amended, all or a portion of the records or information contained herein may specifically be disclosed outside the DoD as a Routine Use pursuant to 5 U.S.C. 552a(b)(3) as follows:

A. To contractors, grantees, experts, consultants, students, and others performing or working on a contract, service, grant, cooperative agreement, or other assignment for the Federal government when necessary to accomplish an agency function related to this system of records.

B. To the appropriate Federal, State, local, territorial, tribal, foreign, or international law enforcement authority or other appropriate entity where a record, either alone or in conjunction with other information, indicates a violation or potential violation of law, whether criminal, civil, or regulatory in nature.

C. To any component of the Department of Justice for the purpose of representing the DoD, or its components, officers, employees, or members in pending or potential litigation to which the record is pertinent.

D. In an appropriate proceeding before a court, grand jury, or administrative or adjudicative body or official, when the DoD or other Agency representing the DoD determines that the records are relevant and necessary to the proceeding; or in an appropriate proceeding before an

administrative or adjudicative body when the adjudicator determines the records to be relevant to the proceeding.

E. To the National Archives and Records Administration for the purpose of records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

F. To a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of, and at the request of, the individual who is the subject of the record.

G. To appropriate agencies, entities, and persons when the DoD suspects or confirms a breach of the system of records; the DoD determines as a result of the suspected or confirmed breach there is a risk of harm to individuals, the DoD (including its information systems, programs, and operations), the Federal Government, or national security; and the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the DoD's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

H. To another Federal agency or Federal entity, when the DoD determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in responding to a suspected or confirmed breach or preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

I. To another Federal, State or local agency for the purpose of comparing to the agency's system of records or to non-Federal records, in coordination with an Office of Inspector General in conducting an audit, investigation, inspection, evaluation, or some other review as authorized by the Inspector General Act.

J. To such recipients and under such circumstances and procedures as are mandated by federal statute or treaty.

K. To DoD security personnel to assist in the verification of security clearances of commission members and panel members that are necessary to perform their required duties for the military commission hearings and trials.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS: Electronic and paper.

Electronic records may be stored locally on digital media; in agency-owned cloud environments; or in vendor Cloud Service Offerings certified under the Federal Risk and Authorization Management Program (FedRAMP).

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS: Retrieved by name and SSN.

POLICIES AND PROCEDURES FOR RETENTION AND DISPOSAL OF RECORDS:

Disposition pending (treat records as permanent until the National Archives and Records Administration has approved the retention and disposal schedule).

ADMINISTRATIVE, PHYSICAL, AND TECHNICAL SAFEGUARDS: Paper records are maintained in a controlled facility with locks, security guards, and key cards. Access to records is limited to authorized persons who are responsible for servicing the records in the performance of their official duties and who are properly screened and cleared. Electronic records maintained in Adobe PDF and are password protected and accessible through the use of common access cards of users with an authorized account. Additional safeguards include: Multifactor log-in authentication including Common Access Card (CAC) authentication and password; network encryption to protect data transmitted over the network and mandatory information assurance and privacy training for individuals who will have access.

RECORD ACCESS PROCEDURES: Individuals seeking access to information about themselves contained in this system of records should address written inquiries to the Office of the Secretary of Defense/Joint Staff Freedom of Information Act Requester Service Center, 1155 Defense Pentagon, Washington, DC 20701-1155. Signed, written requests should include the individual's full name, current address and telephone number, street address, email address, case

name, as well as the name and number of this system of records notice. In addition, the requester must provide a notarized statement or an unsworn declaration made in accordance with 28 U.S.C. 1746, in the following format:

If executed outside the United States: “I declare (or certify, verify, or state) under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on (date). (Signature).”

If executed within the United States, its territories, possessions, or commonwealths: “I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature).”

CONTESTING RECORD PROCEDURES: The DoD rules for accessing records, contesting contents and appealing initial agency determinations are published in 32 CFR Part 310, or may be obtained from the system manager.

NOTIFICATION PROCEDURES: Individuals seeking to determine if information about themselves is contained in this system of records should follow the instructions for Record Access Procedures above.

EXEMPTIONS PROMULGATED FOR THE SYSTEM: None.

HISTORY: N/A.

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